



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 844

H.P. 641

House of Representatives, March 3, 2011

### **An Act To Provide Affordable Health Insurance for Municipal and School Employees through Competition**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative DILL of Cape Elizabeth.  
Cosponsored by Senator BLISS of Cumberland and  
Representatives: HASKELL of Portland, KRUGER of Thomaston, MacDONALD of  
Boothbay, MORRISON of South Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §285, sub-§1, ¶E-1** is enacted to read:

3 E-1. Any member of the Maine Municipal Association or the Maine Education  
4 Association and any employee of a school administrative unit or municipality if the  
5 school board or municipality elects to participate in the group health plan under this  
6 section;

7 **Sec. 2. 5 MRSA §285, sub-§1-B**, as repealed and replaced by PL 2005, c. 636,  
8 Pt. A, §1, is repealed.

9 **Sec. 3. 20-A MRSA §1001, sub-§14**, as amended by PL 2001, c. 588, §§8 and 9,  
10 is further amended to read:

11 **14. Insurance purchase by competitive bidding.** Except as otherwise provided by  
12 waiver, a school board shall oversee the purchasing of insurance by competitive bidding,  
13 including a school board in a municipal school unit in which school insurance and  
14 municipal insurance are purchased as a package through competitive bidding by the  
15 municipal government. On each insurance policy, a competitive bid must be sought at  
16 least once every 5 years. To take advantage of commercial package policies in the  
17 marketplace, a school board shall group qualifying lines of insurance into a single  
18 competitive bid process. Each policy secured by competitive bidding must be issued with  
19 a 3-year policy term or, if this is not possible, a commitment for 3 one-year policy terms  
20 must be secured with an option for 2 additional one-year policy terms, subject to annual  
21 review and adjustment.

22 A. The requirement of competitive bidding may be waived by a school board when:

23 (1) In the opinion of the school board, an emergency exists that requires the  
24 immediate procurement of insurance. The emergency may include the premature  
25 cancellation of an existing policy or acquisition of a risk that can not be added to  
26 an existing policy, including the signing of a lease. However, at the next renewal  
27 of the policy, procurement of insurance is subject to competitive bidding;

28 (2) After reasonable investigation by the school board, it appears that the  
29 required insurance is procurable from only one source;

30 (3) It appears to be in the best interest of the school board to negotiate for the  
31 procurement of an excess insurance line; or

32 (4) The line of insurance is workers' compensation or an employee benefit such  
33 as life, or disability or health insurance in accordance with subsection 5; ~~or~~. The  
34 requirement of competitive bidding may not be waived for the procurement of  
35 health insurance.

36 ~~(5) The school board is in a municipal school unit and school insurance and~~  
37 ~~municipal insurance are purchased as a package through competitive bidding by~~  
38 ~~the municipal government.~~

39 B. A registry of bidders must be maintained by the school board. Invitations to bid  
40 or proposals must be sent to a registry of bidders on file with the school board.

1 Insurance agents or brokers licensed by the Bureau of Insurance and risk pools  
2 authorized under Title 24-A or Title 30-A, chapter 117 desiring to have their names  
3 entered on a registry of bidders shall submit to the school board in writing a request  
4 for such action. The name of a bidder entered in a registry who fails to submit a bid  
5 on 3 consecutive proposals or invitations to bid may be removed from the registry at  
6 the discretion of the school board.

7 C. "Competitive bidding" means the following multistep process.

8 (1) At least 4 months before the expiration date of the policy for which bids are  
9 being solicited, a prequalification questionnaire, referred to in this paragraph as  
10 the "questionnaire," must be developed by the school board for the purpose of  
11 prequalifying bidders. The questionnaire must contain at a minimum:

12 (a) Questions on the bidder's insurance knowledge, educational background,  
13 licensing, errors and omissions insurance, experience with public entities,  
14 experience with school systems and number of years in business. The  
15 questionnaire must state that qualified bidders must be insurance agents or  
16 brokers licensed by the Bureau of Insurance or duly authorized risk pools  
17 under Title 24-A or Title 30-A, chapter 117;

18 (b) The evaluation criteria and relative scoring weights to be applied in the  
19 prequalification evaluation process;

20 (c) A statement that bidders are subject to prescreening and may not  
21 approach an insurer or reinsurer until given permission by the school board to  
22 do so since markets are allocated by the school board. The questionnaire  
23 must state that failure to comply with this restriction automatically  
24 disqualifies the bidder. The questionnaire must state that the school board  
25 reserves the option to require a personal interview at any time in the process;  
26 and

27 (d) The address and contact person to which the questionnaire must be  
28 submitted and the opening date and time, which may not be less than 3 1/2  
29 months from the expiration date of the policy or policies being sought. The  
30 questionnaire must state that: all proposals are publicly opened at the date,  
31 time and place noted; a questionnaire received after the date and time  
32 specified is rejected, but retained and not evaluated or considered further; and  
33 proposals are not available for inspection until after the bid is awarded. The  
34 questionnaire must state that the school board reserves the right to reject a  
35 questionnaire and does not accept responsibility for costs incurred by a  
36 bidder in the preparation of a questionnaire. The questionnaire must state  
37 that bidders are notified of the outcome in writing no later than 10 days after  
38 the closing date.

39 (2) In the same time frame, the school board shall approve a request for  
40 proposal, referred to in this paragraph as the "proposal." The proposal must  
41 contain at a minimum:

42 (a) The line or lines of insurance for which bids are being solicited and a  
43 clear definition of minimum coverage required, minimum limits required,  
44 deductibles, policy forms and endorsements required and policy term

- 1 required. If coverage identical to the expiring coverage is being sought, a  
2 copy of the expiring policy or policies and all endorsements may be enclosed  
3 to meet this requirement;
- 4 (b) Basic underwriting information, such as named insured, mailing address,  
5 nature of risk, actual locations, schedules of buildings, business personal  
6 property, vehicles or any other property for which insurance is being sought,  
7 if applicable;
- 8 (c) At least a 3-year and preferably a 5-year company-generated loss run;
- 9 (d) A clear definition of the services, if any, required of both the bidder and  
10 the insurer;
- 11 (e) The minimum A.M. Best rating and financial size category acceptable to  
12 the school board;
- 13 (f) The evaluation criteria and relative scoring weights to be applied to the  
14 proposal. Cost of the insurance coverage must be included in the evaluation  
15 criteria and must be given a minimum of 50% of the total weight of all  
16 criteria;
- 17 (g) The address and contact person to which a bid must be submitted and the  
18 bid opening date and time. The proposal must state that: all proposals are  
19 publicly opened at the date, time and place noted; bids received after the date  
20 and time specified are rejected, but retained and not evaluated or considered  
21 further; and proposals are not available for inspection until after the bid is  
22 awarded. The proposal must state that the school board reserves the right to  
23 reject a bid and does not accept responsibility for costs incurred by a bidder  
24 in the preparation of a proposal. The proposal must state that all bidders are  
25 notified of the outcome in writing no later than 20 days after the bid closing  
26 date;
- 27 (h) The name, address and optionally a facsimile number of a school board  
28 contact person to whom written questions may be addressed. The proposal  
29 must state that the school board will reply to questions submitted in writing  
30 before a specified deadline with copies of the questions and answers to be  
31 provided in writing to all bidders; and
- 32 (i) A statement that the successful bidder must present an insurance binder to  
33 the school board within 5 days of the award and no later than the expiration  
34 date of the existing policy. Failure to do so disqualifies the award and the  
35 award is then made to the next highest-rated bidder who was in compliance  
36 with the proposal. The proposal must state that all decisions regarding the  
37 award are final.
- 38 (3) Each bidder on the registry of bidders must be provided with a questionnaire  
39 and proposal 4 months before the expiration of the policy or policies being  
40 sought. Each bidder must complete and return the questionnaire before the stated  
41 date and time as specified in the questionnaire. In addition, a bidder must state in  
42 the order of preference the insurers they prefer to solicit on the school board's  
43 behalf. The school board shall then have 3 persons independently review a

1 questionnaire on the basis of the established criteria. The reviewers shall  
2 document the scoring and select all qualified bidders, but no more than the 5  
3 highest-rated, to participate further in the process.

4 (4) The school board shall allocate to each selected bidder at least one insurer  
5 from which to solicit a bid. This market allocation must be made on the basis of  
6 awarding the bidder's first choice to the bidder. If there is a conflict, an  
7 incumbent broker is given preference over the school board's incumbent insurer.  
8 Allocation is then made on the basis of highest-qualifying score. Once market  
9 allocation is complete, a new bid closing date must be set for 30 days before the  
10 policy expiration date for submission of insurer bids.

11 (5) The school board shall have 3 persons independently review each submitted  
12 bid on the basis of the established criteria. The reviewers shall document the  
13 scoring and substantive information that supports the scoring and make the award  
14 decision. Interviews may be considered within the review. Award must be made  
15 to the highest-rated proposal that conforms to the proposal. Tie scores must be  
16 resolved on the basis of factors considered by the school board to serve the best  
17 interests of the school system. Minor negotiations not affecting the bid price  
18 more than 5% after notice of award are allowed and, if agreement can not be  
19 reached, the proposal may be rejected and the award made to the next highest-  
20 rated bidder who is in compliance with the proposal. Written records must be  
21 kept by each person reviewing or ranking proposals. The award of the bid must  
22 then be announced publicly. All bidders must be notified in writing no later than  
23 5 days after the award is made. The successful bidder shall submit, in accordance  
24 with the proposal, a written binder of insurance within 5 days of the award and no  
25 later than the expiration date of the expiring policy. All decisions regarding  
26 awards are final.

27 **Sec. 4. 24 MRSA §2307-C** is enacted to read:

28 **§2307-C. Information concerning school administrative unit's experience rating**

29 Notwithstanding any provisions of law governing confidentiality, a nonprofit hospital  
30 or medical service organization shall provide information concerning a school  
31 administrative unit's own experience and claims history as a member covered under a  
32 group policy or contract to that school administrative unit at that unit's own request and to  
33 any municipality in the unit if the municipality so requests.

34 **Sec. 5. 24-A MRSA §2803-B** is enacted to read:

35 **§2803-B. Information concerning school administrative unit's experience rating**

36 Notwithstanding any provisions of law governing confidentiality, an insurer shall  
37 provide information concerning a school administrative unit's own experience and claims  
38 history as a member covered under a group policy or contract to that school  
39 administrative unit at that unit's own request and to any municipality in the unit if the  
40 municipality so requests.

41 **Sec. 6. 24-A MRSA §4224-B** is enacted to read:

